

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff/Respondent,

v.

Donald Steven Reynolds,

Defendant/Petitioner.

Civil Case No. 18-13104

Criminal Case No. 12-20843

Sean F. Cox

United States District Court Judge

ORDER REGARDING
BRIEFING ON PETITIONER'S FORM § 2255 MOTION

Defendant/Petitioner Donald Steven Reynolds was convicted of child pornography offenses following a jury trial and his conviction and sentence were affirmed on direct appeal. On September 28, 2018, Reynolds filed a form Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody (ECF No. 199 at Page ID 3890-3901). Along with that form § 2255 Motion, Reynolds filed a supporting brief that consists of seventy-six pages, doubled-spaced, with 12-point font.

The Government filed a motion asking the Court to strike Reynolds's over-sized brief and order him to file a brief of no more than twenty-five pages in length, in compliance with the applicable local rules.

This Court granted that motion in an Order issued on January 15, 2019, wherein the Court ruled as follows:

Having considered the Government's motion, Reynolds's brief opposing it, and Reynolds's over-sized brief, the Court hereby **GRANTS** the Government's Motion to Strike. Pursuant to *Martinez v. United States*, 865 F.3d 842 (6th Cir.

2017) and Local Rule 7.1 of the Local Rules of the Eastern District of Michigan this Court **ORDERS** as follows:

- 1) The Court **shall not consider** the 76-page brief that Reynolds filed in support of the four grounds for relief set forth in his form § 2255 Motion;
- 2) No later than **March 15, 2019**, in support of the four grounds for relief set forth in his pending form § 2255 motion, Reynolds may file either:
 - A) A brief of no more than twenty-five (25) pages, doubled-spaced, with 14-point font; or
 - B) A brief of no more than twenty (20) pages, doubled-spaced, with 12-point font.¹
- 3) No later than **May 15, 2019**, the Government shall file a response brief of no more than 25 pages, doubled-spaced, with 14-point font; and
- 4) No later than **June 15, 2019**, Reynolds may file either:
 - A) A brief of no more than seven (7) pages, doubled-spaced, with 14-point font; or
 - B) A brief of no more than five (5) pages, doubled-spaced, with 12-point font.

IT IS SO ORDERED.

(ECF No. 207) (bolding in original).

On February 8, 2019, Reynolds filed a Motion for Reconsideration. (ECF No. 208). In that motion, Reynolds asked this Court to reconsider its ruling on the Government's Motion to Strike and allow him to proceed with his over-sized § 2255 brief. This Court denied that motion in an order issued on February 12, 2019, noting that Reynolds's request to allow him to proceed with his over-sized brief was denied with prejudice and ordering that any brief filed by Reynolds

¹The Court is giving Reynolds this option as a courtesy, in the event the typewriter he has access to does not have 14-point font.

must be “in accordance with the page limitations set forth in this Court’s January 15, 2019 Order.” (ECF No. 209).

On February 26, 2019, Reynolds filed a motion seeking reconsideration of this Court’s order denying his February 8, 2019 Motion for Reconsideration. (ECF No. 210). On March 11, 2019, this Court denied that second reconsideration motion, and expressly advised Reynolds that this “**Court’s February 12, 2019 Order Denying Reynolds’s Motion for Reconsideration (ECF No. 209) stands as written. Petitioner is advised that the Court will not consider any additional motions seeking reconsideration of the Court’s rulings on the length of Petitioner’s brief.**” (ECF No. 211) (bolding in original).

Rather than file a supporting brief in compliance with the Local Rule and this Court’s orders, Reynolds filed a Notice of Appeal on March 18, 2019, purporting to appeal this Court’s rulings regarding the page limitations. (ECF No. 212).

On April 23, 2019, the United States Court of Appeals for the Sixth Circuit issued an order wherein it dismissed Reynolds’s appeal for lack of subject matter jurisdiction. (*See* ECF No. 214).

On May 21, 2019, this Court issued an Order noting that Reynolds’s appeal had been dismissed for lack of subject matter jurisdiction and ordered as follows:

To date, Reynolds has not filed a supporting brief in compliance with this Court’s orders. **The Court hereby ORDERS that Reynolds must do so no later than June 14, 2019.** If Reynolds fails to do so, the Court will order the Government to file a response based upon Reynold’s form § 2255 motion. **Reynolds is further advised that the Court will not entertain any additional motions seeking an extension of time for filing his brief, or any motions seeking to file an over-sized brief.**
IT IS SO ORDERED.

(ECF No. 215) (bolding in original).

Reynolds has not filed a supporting brief in compliance with the Court's orders and the time for doing so has long since passed. Accordingly, given that this Court struck Reynolds's over-sized brief, and Reynolds chose not to file a compliant supporting brief, this Court now

ORDERS as follows:

- 1) No later than **October 15, 2019**, the Government shall file a brief **responding to Reynolds's form § 2255 motion**. That brief must be no more than twenty-five (25) pages, doubled-spaced, with 14-point font; and
- 2) Any Reply Brief filed by Reynolds must be filed no later than **December 2, 2019**, and shall be no longer than seven (7) pages, doubled-spaced, with 14-point font.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: August 30, 2019

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 30, 2019, by electronic and/or ordinary mail.

s/Erica Karhoff on behalf of

Jennifer McCoy, Case Manager